

JACK E. LEA

IBLA 80-677

Decided August 29, 1980

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM 35956.

Affirmed.

1. Oil and Gas Offers: Applications: Generally--Oil and Gas Leases: Lands Subject To

A noncompetitive over-the-counter oil and gas lease offer is properly rejected where the subject lands were previously held in oil and gas leases which expired and have not subsequently been posted by BLM as available for simultaneous noncompetitive offers.

APPEARANCES: Jack E. Lea, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

On January 17, 1979, Jack E. Lea filed an over-the-counter noncompetitive oil and gas lease offer for 1,312.75 acres of lands in secs. 5 7, T. 23 N., R. 12 W., New Mexico principal meridian, with the New Mexico State Office, Bureau of Land Management (BLM). On April 11, 1980, BLM issued a decision rejecting this offer, as all of the lands included therein had been included in previous oil and gas leases which had expired, and as the lands had not yet been made available for leasing as required by 43 CFR 3112.1 prior to the filing of Lea's offer. Lea (appellant) appealed this decision.

[1] Under 43 CFR 3112.1 1, all lands covered by leases which expire at the end of their terms are subject to the filing of new over-the-counter lease offers only after BLM has posted a list of the lands in the expired leases together with a notice stating that such lands are open to the filing of simultaneous offers (Robert N. Enfield, 36 IBLA 383 (1978); Robert P. Marshall, 36 IBLA 279 (1978);

Jack E. Griffin, 7 IBLA 155 (1972)); and, even then, only if no simultaneous offers are received during the filing period. L. A. Walstrom, Jr., 36 IBLA 397 (1978); David A. Provinse, 33 IBLA 312 (1978). Here, BLM has never posted these lands as open to simultaneous offers, and appellant's over-the-counter offer was therefore premature, and was properly rejected.

Appellant protests that BLM's failure to post the lands denies the public of the opportunity to receive rental and, possibly, production from an oil and gas lease of these lands. Nothing in 43 CFR 3112.1 provides that lands formerly under lease will become available for new leases automatically; nor is any deadline established for posting such lands as open to leasing. Robert P. Marshall, supra at 280. Thus, BLM may not be faulted for failing to post these lands as open to competitive leasing.

Appellant alleges that the plat book in the 'Office of Public Records, Santa Fe,' contains a notation that most of the lands in sec. 5 for which he applied 'had been listed for simultaneous filing,' thus indicating that these lands were now open to over-the-counter offers. It is not clear whether appellant refers to BLM records, but the oil and gas status plat in the present record does not now so indicate, but instead bears a subsequent handwritten notation that 'Lots 5 through 12 [in sec. 5] were in prior leases NM 073547 and A [:] both leases exp[ired] 1/31/72. This land has not been listed.' (Emphasis supplied.) Thus, we reject appellant's allegation as unsupported by the record.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Edward W. Stuebing  
Administrative Judge

We concur:

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Anne Poindexter Lewis  
Administrative Judge

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James L. Burski  
Administrative Judge

